

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Gary Wayne Presley,	)	
	)	
Petitioner,	)	
	)	
vs.	)	Civil Action No.: 8:11-cv-1553-TLW-JDA
	)	
Director Ronaldo Myers,	)	
	)	
Respondent.	)	
	)	

**ORDER**

The petitioner, Gary Wayne Presley (“petitioner”), brought this civil action, pro se, pursuant to 28 U.S.C. § 2241 on June 27, 2011. (Doc. # 1).

This matter now comes before this Court for review of the Report and Recommendation (“the Report”) filed by United States Magistrate Judge Jacquelyn D. Austin to whom this case had previously been assigned. (Doc. # 20). In the Report, the Magistrate Judge recommends that the District Court dismiss this petition for a writ of habeas corpus without prejudice and without requiring a response by the respondent. (Doc. # 20). The petitioner filed objections to the Report. (Doc. # 22). The petitioner also filed a letter and a motion to expedite. (Docs. 24, 26). In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections . . . . The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court’s review of the Report thus depends on whether or not

objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992)

(citations omitted).

In light of the standard set forth in Wallace, the Court has reviewed, de novo, the Report and the objections. After careful review of the Report and objections thereto, the Court **ACCEPTS** the Report. (Doc. # 20). Therefore, for the reasons articulated by the Magistrate Judge, this petition for a writ of habeas corpus is **DISMISSED** without prejudice and without requiring a response by the respondent. In light of this ruling, the petitioner's motion to expedite (Doc. # 26) is now **MOOT**.

**IT IS SO ORDERED.**

s/Terry L. Wooten  
United States District Judge

January 11, 2012  
Florence, South Carolina